

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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333 EAST 60TH STREET, INC., d/b/a
Scores East,

Plaintiff,

08 Civ. 4147 (RJS)

-against-

NEW YORK STATE LIQUOR AUTHORITY,
DANIEL B. BOYLE, individually,
LAWRENCE J. GEDDA, individually,
NOREEN HEALEY, individually, and the
CITY OF NEW YORK,

**AFFIDAVIT OF ELLIOT
OSHER IN OPPOSITION
TO DEFENDANTS'
MOTION TO DISMISS**

Defendants.

-----X

STATE OF NEW YORK)
)ss.:
COUNTY OF WESTCHESTER)

ELLIOT OSHER, being duly sworn, deposes and says:

1. I am a principal in, and officer of, the Plaintiff and submit this affidavit in opposition to Defendants' motions to dismiss and in further support of Plaintiff's motion for preliminary injunctive relief.

2. With respect to the City's claims regarding street closures:

a. The streets giving access to Scores West were routinely barricaded shut from approximately 10:00 p.m. to 5:00 or 5:30 a.m.,

b. Routinely there was no pedestrian and/or vehicular traffic on either street and blockage of those streets only resulted from the presence of uniformed police officers, including those posted at the entrance of Scores West,

c. The streets were barricaded shut five or six nights of every week, not for limited periods of time,

d. The barricades of both streets occurred on many nights that the other clubs, referenced by the City, were not open for business, and,

e. The barricades of those streets routinely commenced prior to Scores West's opening, a circumstance that prohibited the principals of the corporate Plaintiff, employees and the female dancer from parking in proximity to the premises.

3. Commencing last night to my personal observation vehicular access to Scores East was barricaded by a traffic enforcement officer and a uniformed police officer in a marked police vehicle with his roof lights activated. In that connection the traffic enforcement officer turned away would be clientele of Scores East, falsely advising them that the premises "wasn't there any more". When I confronted him about that he advised me that: i) he had been instructed to say that to would-be patrons; ii) he had been instructed to prohibit vehicular access to the subject street; iii) and he admittedly was preventing vehicular access specifically because of "Scores". In that connection he in my presence advise the occupants of one motor vehicle that the could not enter the street because only "local deliveries" were permitted.

4. With respect to "Nicole Green", I have reviewed all pertinent records of Scores East. At no time was any such individual employed by and/or permitted to work at Scores East's premises.

5. By notice (copy annexed) the SLA has now scheduled the Scores East

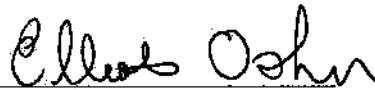
revocation proceeding to commence next month, in Albany, New York.

WHEREFORE a hearing on Plaintiff's application for a preliminary injunction should be granted.

Sworn to before me this
15th day of June, 2008.

Notary Public

JONATHAN LOVETT
Notary Public, State of New York
No. 4686713
Qualified in Westchester County
Commission Expires November 30, 2010



Elliot Osher

STATE OF NEW YORK
DIVISION OF ALCOHOLIC BEVERAGE CONTROL

80 South Swan Street, Suite 900
Albany, NY 12210-8002

317 Lenox Avenue
New York, NY 10027

535 Washington Street, Suite 303
Buffalo, NY 14203

LICENSEE'S NAME AND ADDRESS OF PREMISES

DATE: 07/08/2008

1143246, NEW YORK OP 1143246
1740-2008

333 EAST 60TH STREET INC
SCORES
333 E 60TH STREET
NEW YORK, NY 10022

NOTICE OF HEARING
Case No. 49305

PLEASE TAKE NOTICE THAT the hearing in connection with the proceedings to suspend, cancel or
revoke the license issued to you for the above premises has been scheduled for

Date and time of Hearing: 08/19/2008 at 10:30 AM

Place of Hearing: NYS Liquor Authority - Albany,
Suite 900
80 South Swan Street
Albany, NY 12210

Report to Room.

You are hereby directed to appear at the aforementioned time and place. Failure to appear at the hearing will
be deemed a "no contest" plea and no further hearing will be held.

NOTE: PLEASE SEE ATTACHED REGARDING ADJOURNMENTS, NO CONTEST PLEAS AND
TRANSLATOR SERVICES.

Licensor's Representative
MARTIN P. MEHLER, ESQ.
MEHLER & BUSCEMI, ESQS.
305 BROADWAY, #1102
NEW YORK NY 10007

STATE LIQUOR AUTHORITY

Licensor's name and residence address
GOLD DRING, RICHARD K
5 FOX CHASE DR
WATCHUNG, NJ 07069



BY Mary Jo Lattimore-Young, Esq.

Licensor's Landlord
CLUB AT 60TH STREET INC
1386 VISTA MORAGA DR
LOS ANGELES, CA 90049